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8 IN THE UNITED STATES DISTRICT COURT
9
EASTERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,

CASE NO. 2:22-CR-0176-TLN

11 Plaintiff,

STIPULATION AND JOINT REQUEST FOR
12 PROTECTIVE ORDER; PROTECTIVE ORDER
v.

13 JIMMY PEREZ AYON,

14 Defendant.
15

16 **I. STIPULATION**

17 1. Plaintiff United States of America, by and through its counsel of record, and defendant
18 Jimmy Perez Ayon, by and through his counsel of record (“Defendant” and “Defense Counsel”), for the
19 reasons set forth below, hereby stipulate, agree, and jointly request that the Court enter a Protective
20 Order in this case restricting the use and dissemination of certain materials that could identify
21 undercover agents and/or confidential sources, and/or that contain personal identifying information
22 (“PII”) and other confidential information of real persons.

23 2. This Court may enter protective orders pursuant to Rule 16(d) of the Federal Rules of
24 Criminal Procedure, Local Rule 141.1, and its general supervisory authority.

25 3. On August 11, 2022, the Grand Jury returned an indictment charging Defendant with
26 conspiracy to distribute and possess with intent to methamphetamine, fentanyl, and para-fluorofentanyl,
27 in violation of 21 U.S.C. §§ 846, 841(a)(1) (Count One), distribution of methamphetamine, in violation
28 of 21 U.S.C. § 841(a)(1) (Count Two), use of an interstate facility in aid of racketeering, in violation of

1 18 U.S.C. § 1952(a)(3) (Count Three), possession with intent to distribute heroin, in violation of 21
2 U.S.C. § 841(a)(1) (Count Four), and manufacture of marijuana, in violation of 21 U.S.C. § 841(a)(1)
3 (Count Five).

4 4. As part of its investigation in the above-captioned case, the government is in the
5 possession of documents and other materials relating to the charges against the Defendant, and seeks to
6 provide those materials to counsel for the Defendant. The government seeks to do so pursuant to its
7 discovery obligations, although some of the materials may exceed the scope of the government's
8 discovery obligations and will be produced to promote a prompt and just resolution of the case.

9 5. The government intends to produce to Defense Counsel: (1) audio recordings, video
10 recordings, photographs, investigative reports and/or other documents that could identify law
11 enforcement undercover agents and/or confidential sources; and (2) materials containing PII and other
12 confidential information of real persons. These real persons are third parties, co-defendants, and/or
13 witnesses to this case. This discovery will be considered "Protected Material" as described in this
14 stipulation and order, as will any other discovery marked as Protected Material.

15 6. The purpose of this stipulation and order is to establish the procedures that must be
16 followed by Defense Counsel, any designated employees, and any other individual who receives access
17 to any Protected Material in this case and the information therein.

18 7. The Government shall produce the aforementioned Protected Material to Defense
19 Counsel, designating the discovery with the bates prefix, "PEREZ AYON_PM_." This discovery, and
20 any subsequent material discovered by the Government to Defense Counsel using the bates-prefix, shall
21 be considered Protected Material.

22 8. All Protected Material in this case is now and will forever remain the property of the
23 Government. It is entrusted to Defense Counsel only for purposes of representing the Defendant during
24 the pendency of this case.

25 9. Defense Counsel shall not give any Protected Material to any person other than Defense
26 Counsel's staff assisting in preparation of the present case. The term "staff" shall explicitly include only
27 attorneys, paralegals, legal assistants, retained experts, and investigators assisting Defense Counsel in
28 the present matter. The term excludes any other defendant in this matter or any other pending matter

1 against the Defendant; any person involved in any case in which discovery concerning the Defendant is
2 produced; and any other person other than those specifically authorized to see Protected Material under
3 this paragraph.

4 10. Any person receiving access to the Protected Material from Defense Counsel shall be
5 bound by the same obligations as Defense Counsel and, further, may not give any Protected Material to
6 anyone.

7 11. No members of the Defendant's family, friends of the Defendant, personal or
8 professional associates of the Defendant, or any other person affiliated with the Defendant or any
9 Defendant in a related case shall be given access to any Protected Material or its contents in any manner,
10 for any reason.

11 12. Defense Counsel may make copies of Protected Material and may take written or typed
12 notes summarizing it in connection with preparation of the case. If necessary to the litigation of the
13 instant matter, Defense Counsel may also have audio or video forms of Protected Material transcribed.
14 All notes, copies, duplicates, summaries, transcripts, or other representations of or concerning the
15 information in the Protected Material comprises "Protected Material" itself, must be affixed with the
16 corresponding bates numbers and the "Protected Material" ledger, and is subject to all terms of this
17 stipulation and order.

18 13. Defense Counsel shall maintain a list of persons to whom any Protected Material is being
19 or has been given. Such persons shall be provided with a copy of the executed version of this stipulation
20 and order, shall sign their full names to a copy, and shall in writing acknowledge that they understand its
21 terms and are bound by it. If Defense Counsel is replaced for any reason, or if new counsel is appointed
22 in any phase of the matter, the new counsel shall not have access to any Protected Material until and
23 unless they sign a copy of this stipulation and order, under the terms described in this paragraph.

24 14. Defense Counsel may use the Protected Material in the defense of Defendant in the
25 instant case in any manner deemed essential to adequately represent him (i.e., in motions that are filed
26 under seal, if necessary; in ex parte applications as may be needed; and in reproducing and summarizing
27 Protected Material for use in trial preparation summaries, exhibits and as evidence, as may be needed),
28 consistent with this stipulation and order as it shall be originally prepared and signed.

15. In the event Defense Counsel needs to use any Protected Material in a manner not authorized under this stipulation and order, Defense Counsel is entitled to seek to have this stipulation and order amended by the District Court, after having given notice to counsel for the Government, in a hearing before the District Court, in order to meet the obligations under the Sixth Amendment to the United States Constitution.

16. Defense Counsel and any authorized members of Defense Counsel's staff are authorized to review with Defendant the contents of the Protected Material. Defense Counsel and authorized members of his/her staff, however, are prohibited from in any way giving Defendant any Protected Material or any memorialization of the content of any of it, such as: any of the Protected Material itself; copies of any of the Protected Material; copies of excerpts of any of the Protected Material; or summaries of any of the Protected Material. This prohibition will not extend to the Defendant viewing the Protected Material in open court should any of these materials or summaries thereof be used in the litigation of this case.

17. Defense Counsel is authorized to show copies of the Protected Material to potential witnesses in this case. Defense Counsel is prohibited, however, from in any way giving any potential witness any Protected Material or any memorialization of the content of any of it, or allowing any potential witness to make a copy or in any way memorialize the contents of any Protected Material.

Respectfully Submitted,

Dated: August 18, 2022

PHILLIP A. TALBERT
United States Attorney

Dated: August 18, 2022

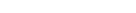
/s/ MICHAEL D. LONG
MICHAEL D. LONG
Counsel for Defendant
Jimmy Perez Ayon

FINDINGS AND ORDER

The Court having read and considered the Stipulation and Joint Request for a Protective Order, which this Court incorporates by reference into this Order in full, hereby finds that GOOD CAUSE exists to enter the above Order.

IT IS SO FOUND AND ORDERED

Dated: August 19, 2022


DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE